Circuit Court for Baltimore City
Case Nos. 112202010, 112226001 to 003

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

CONSOLIDATED CASES

No. 597
September Term, 2015

DONTAY DORSEY
v.
STATE OF MARYLAND

No. 790
September Term, 2015

DEANGELO ANTHONY
v.
STATE OF MARYLAND

Woodward, C.J.,
Wright,
Nazarian,

JJ.

Opinion by Woodward, C.J.

Filed: July 2, 2018

* This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

After a joint trial, a jury sitting in the Circuit Court for Baltimore City convicted Dontay Dorsey and Deangelo Anthony, appellants, of first degree murder, first degree burglary, robbery with a dangerous weapon, two counts of use of a firearm in the commission of a felony or crime of violence, and two counts of wearing, carrying, or transporting a handgun. Dorsey also was convicted of possession of a regulated firearm having been convicted of a disqualifying crime and an additional count of wearing, carrying, or transporting a handgun. Appellants were sentenced to life imprisonment, all but thirty years suspended for the felony murder. Except for those counts that were merged for sentencing purposes, the sentences for the other counts were to run concurrent with the sentence for felony murder. Anthony presents one question and Dorsey presents four questions for our review, which we have consolidated as follows:[1] Is the evidence sufficient to sustain the convictions?

For the reasons discussed below, we uphold all of the convictions and thus affirm the judgments of the circuit court.

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[1] Anthony's question presented in his brief is as set forth above. Dorsey's questions presented in his brief are as follows:

> In the absence of any evidence of a breaking, was the evidence sufficient to convict Dorsey of burglary?
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> Was the evidence sufficient to convict Dorsey of robbery?
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> Must Dorsey's conviction for felony murder be set aside?
>
> Was the evidence sufficient to convict Dorsey of any weapons offense?

BACKGROUND

Chasity Stanfield and the victim, Tavon Fredrick, were unmarried but had two daughters together. On May 23, 2012, Stanfield and her daughters returned to Fredrick's home a little before 9:00 p.m. after having had dinner at a local restaurant. Stanfield's eldest daughter entered her father's home and emerged "screaming frantically that her father was laying in [sic] the floor with blood coming out of his mouth." Stanfield ran inside, found Fredrick unresponsive, and called 911. Officer Phillip Tabron was the first officer to respond concerning the events unfolding at Fredrick's home at 3312 Westerwald Avenue, Baltimore, Maryland. Upon entering the house, he proceeded to the second story master bedroom and confirmed that Fredrick was deceased.

On July 23, 2012, Dorsey was indicted on a charge of first degree murder of Fredrick and related charges. Later, on August 14, 2012, Anthony was also indicted on a charge of first degree murder of Fredrick and related charges.

After Dorsey and Anthony's first trial ended in a mistrial, their second trial began on March 10, 2015. The State's theory of the case was that Kecco Stern, Dontre Mitchell, Dorsey, and Anthony knew Fredrick was a drug dealer, conspired to rob Fredrick of his drugs and cash, and murdered Fredrick during the course of the robbery.

Gregory Hopkins, a longtime friend of Fredrick, testified that on the day of the murder he went to Fredrick's home around 3:00 p.m. and left about twenty minutes later. Hopkins could not recall whether Fredrick's PlayStation was hooked up to his TV on that day, but explained that Fredrick's PlayStation was always hooked up to the left of his TV. He further explained that Fredrick was an avid gamer, playing "virtually every morning."

Hopkins testified that he did not know if Fredrick had any weapons in his home but that Fredrick had not taken any additional security measures after a previous break-in that may have damaged his backdoor. Lastly, Hopkins admitted that he had bought marijuana from Fredrick before, but explained that Fredrick only sold marijuana from his home and to friends or people he knew.

Stanfield testified that on the day of Fredrick's murder, she arrived at his home around 5:00 p.m. Sometime later, Fredrick gave Stanfield and his daughters thirty dollars to go to dinner. According to Stanfield, Fredrick still had money on his person after giving her cash.

Michael McNeill, Fredrick's friend for twenty-one years, testified that, when Stanfield was leaving for dinner, he was arriving at Fredrick's home to watch some TV. McNeill explained that Fredrick was left handed, so he kept his PlayStation to the left of the TV in a black bag. McNeill saw the PlayStation on the night of Fredrick's murder. When asked about Fredrick's backdoor, McNeill stated that no one ever used the back door "[b]ecause it never does. *[Fredrick] got the trash can right there, the deadbolt on the door. Nobody ever goes in the back of that house*. . . . the only time he go out that back door is to take that trash out, that's it." (Emphasis added). McNeill also indicated that he did not stay long at Fredrick's home.

Brian Hoffman, a technology specialist at Waverly Elementary and Middle School pulled surveillance video from the school for the day of Fredrick's murder. One surveillance camera monitored the alley bordering the backyard of Fredrick's home. The video from that camera captured four men walking toward the alley behind Fredrick's

home at 7:49 p.m. but then turning around at 7:50 p.m. At 8:22 p.m., the same four men were captured walking down the alley behind Fredrick's house and, according to the State, jumping the fence into his yard. At 8:28:03 p.m., three individuals reappeared in the alley behind Fredrick's home running back toward the main road; at 8:28:05 p.m., a fourth individual appeared in the alley moving toward the main road.

Michael O'Keefe, Fredrick's neighbor, testified that on the night of Fredrick's murder he was outside looking for his cat when he saw "three [men] dash out of the back alley . . . the Westerwald alley which is in back of Fredrick's house, across Venable, Venable intersects, and down - - they went running like [a] Roadrunner; as fast as they could through the alleys." O'Keefe further testified that a few moments later, a fourth man exited the alley with a backpack. He recalled that he had seen the four men before, because earlier in the day he saw these men suspiciously walking around the neighborhood and reported them to the police. O'Keefe could only identify Anthony as one of the four men.

James Locke, an assistant medical examiner, performed an autopsy of Fredrick. Locke testified that Fredrick sustained five gunshot wounds. One gunshot wound was on the top of Fredrick's head, and another was on the back of his head. Fredrick also had a gunshot wound to his chest and a graze wound to his chin. According to Locke, all of these gunshot wounds indicated that the shooter did not fire at close range. The fifth gunshot wound, however, was on Fredrick's right ear, and Locke determined that this wound was inflicted at close range due to residue near the wound. Locke further stated that Fredrick had multiple abrasions and bruises that could be consistent with a physical altercation.

Locke concluded that, "Fredrick died of multiple gunshot wounds and the manner of death was . . . homicide."

Nandani Goolsarran and Laurie Forney were crime lab technicians for the Baltimore City Police Department on May 23, 2012. Goolsarran took several crime scene photographs, which were later admitted into evidence, depicting what she and other law enforcement personnel encountered at Fredrick's home. Photographs of the first level of the home showed an open backdoor, which led into the dining room of the home. A filled trashcan with its lid removed was laying on its side in the dining room. The exterior of the backdoor revealed what Goosarran suspected to be blood smear.

On the second level was a master bedroom with several chairs located across the room. The TV was no longer on its stand, and wires were dangling from its back. The TV stand showed a dust imprint where the TV once rested, and a rectangular dust imprint on the far left side of the TV stand. Several shell casings and one bullet were scattered throughout the room. The room also contained three cellphones, one of which was a blue Sanyo SCP-2700 Juno laying near the entrance to the bedroom.

Goolsarran and Forney collected the shell casings, the bullet, and samples of suspected blood. They also dusted and collected fingerprints from surfaces throughout the house, including from the blue Sanyo SCP-2700 Juno found on the floor of Fredrick's bedroom and the exterior of the open backdoor.

James Wagster, with the Baltimore City Police Crime Lab Firearms Identification Unit, tested the shell casings and the bullets recovered during the autopsy and in Fredrick's

bedroom. He determined that all of the shell casings and bullets were from the same .45 caliber handgun.[2]

Roy Jones, a latent fingerprint examiner for the Baltimore City Police Department ran tests on the various fingerprints collected at Fredrick's home. He testified that he identified a right palm print belonging to Dorsey from a print found on the backdoor's exterior doorknob. He also identified a left thumbprint on the Blue Sanyo SCP-2700 Juno to be a print belonging to Anthony.[3]

Kimberly Morrow, a DNA analyst with the Baltimore City Police Department testified that she found a mixture of Fredrick and Dorsey's DNA in a swab sample collected from the backdoor of Fredrick's home. She also testified that she received fingernail clippings of Fredrick's right and left hand. When she tested the fingernail clippings from Fredrick's left hand, she found Dorsey's DNA.

Dawnyell Taylor was the lead detective assigned to this case by the Baltimore City Police Department. She testified that, when she arrived at Fredrick's home, she noticed that the backdoor was open, and the master bedroom was in disarray. She also testified that Fredrick's home smelled like raw marijuana; a smell with which she was familiar after spending several years in the narcotics division. The smell seemed to emanate from an empty blue bucket, overturned in the bedroom with a lid unfastened on the top. She further

[2] The .45 caliber handgun was never recovered, and database searches did not reveal any matches.

[3] Anthony later stipulated that the Blue Sanyo SCP-2700 Juno was in his possession on May 23, 2012.

stated that a search of Fredrick revealed that he did not have any money on him.

After the conclusion of the State's case-in-chief, Anthony took the stand in his own defense and testified that he and Mitchell were close friends, because they had grown up together. He stated that he was also friends with Dorsey and Stern, and he had known both of them for over seven years. He testified that on May 23, 2012, he, Mitchell, Dorsey, and Stern were all at the viewing of a recently deceased friend. He explained that he and Mitchell arranged to buy marijuana from Fredrick, and on their way to Fredrick's house, they happened to meet up with Dorsey and Stern. According to Anthony, all four of them walked around the school waiting for Fredrick's children to leave, and when the children left, Fredrick called Mitchell. Anthony then recounted the following events:

> [W]e went to the back door, so [Fredrick] greeted us. And then . . . we usually buy regular weed, but - - and then [Fredrick] say[s] he had some new high-grade weed that he want us to try. So we was like all right. So . . . we went upstairs to the back - - I mean, to his bedroom, went upstairs to his bedroom door, so. And then he let us in his bedroom and he said I got this high-grade weed I want you all to try. So as he's showing us the weed I can smell it. So that's when I asked can I use the bathroom. So I went to the bathroom to use the bathroom.
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> * * *
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> Then I used the bathroom. As I'm using the bathroom I flush and I hear a lot of commotion going on. So I hear [Fredrick] say where my - - where my fucking money at, where my money? So as he's saying where my money at, so I feel I had a vibrate on my phone, so I pulled out my phone and then I walk . . . I left out the bathroom and I hear I want my fucking money, I ain't playing with none of you all, I want my money.
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> So as I go in the doorway, like I was shocked what I saw and . . . [Fredrick] had the gun waving at everybody. . .

* * *

> So everybody got their hands up like, man, chill, it ain't even that - - it ain't even that serious. So he's like where my money at . . . [T]hen he looks at me and as he look at me that's when [ ] Dorsey went to go try to grab the gun. As he tried to grab the gun, then they was tussling.
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> * * *
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> [They were] fighting over the gun.
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> * * *
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> Like they tussling over the gun. As they tussling over the gun like Dorsey trying to get his hand to protect himself or whatever. So they tussling, then the gun falls. So as the gun fall - - so [ ] Stern ran over there towards the gun and pick - - picks the gun up. And as he picks the gun up [Fredrick] sees [ ] Stern . . . and push Stern. So as he pushed Stern, that's when [Fredrick] charged him, charged Stern.
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> * * *
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> So when [ ] Fredrick charged [ ] Stern . . . I hear boom. So after that I - - I ran, I left, I was shocked.

Anthony testified that he, Dorsey, and Mitchell ran out the backdoor of the house to Mitchell's car, and Anthony did not see Stern again until he was arrested.

On cross-examination, Anthony admitted that the four individuals captured on the school surveillance video were Dorsey, Mitchell, Stern, and himself. He also explained that, when they went up to Fredrick's bedroom, Fredrick laid out the marijuana on his bed, and it had a strong, potent smell.

On March 19, 2015, the jury found each appellant guilty of first degree murder, first degree burglary, robbery with a dangerous weapon, two counts of use of a firearm in the commission of a crime of violence, and two counts of wearing, carrying, or transporting a

handgun. The jury also found Dorsey guilty of possession of a regulated firearm after having been convicted of a disqualifying crime and another count of wearing, carrying, or transporting. The jury did not find either appellant guilty of conspiracy.

On May 1, 2015, appellants were sentenced to life imprisonment, all but thirty years suspended for the felony murder. The circuit court merged the other convictions for sentencing purposes or imposed concurrent sentences. Appellants also received five years of probation upon release. Appellants filed timely appeals, and this Court consolidated their cases for our review.

STANDARD OF REVIEW

"This Court reviews an issue regarding the sufficiency of the evidence in a criminal trial by determining whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt."[4] *Titus v. State,* 423 Md. 548, 557 (2011) (quotations and citations omitted). In our review, we consider "[c]ircumstancial evidence [ ] as persuasive as direct evidence[,]" because "[w]ith each, triers of fact must use their experience with people and events to weigh probabilities." *Mangum v. State*, 342 Md. 392, 400 (1996)

[4] "Once a defendant has been found guilty of the crime charged, the factfinder's role as weigher of the evidence is preserved through a legal conclusion that upon judicial review *all of the evidence* is to be considered in the light most favorable to the prosecution." *Purnell v. State*, 171 Md. App. 582, 609 (2006) (emphasis in original) (citing *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). Accordingly, we reject Dorsey's argument that this Court may not consider the evidence presented in the defense's case in determining the issue of the sufficiency of the evidence.

(internal quotation marks and citation omitted). Indeed, as the Court of Appeals has explained:

> The purpose is not to undertake a review of the record that would amount to, in essence, a retrial of the case. Rather, because the finder of fact has the unique opportunity to view the evidence and to observe first-hand the demeanor and to assess the credibility of witnesses during their live testimony, we do not re-weigh the credibility of witnesses or attempt to resolve any conflicts in the evidence. **We recognize that the finder of fact has the ability to choose among differing inferences that might possibly be made from a factual situation, and we therefore defer to any possible reasonable inferences the [trier of fact] could have drawn from the admitted evidence and need not decide whether the [trier of fact] could have drawn other inferences from the evidence, refused to draw inferences, or whether we would have drawn different inferences from the evidence.**

Titus, 423 Md. at 557–58 (emphasis added) (internal quotation marks and citations omitted).

DISCUSSION

I. Principals and Accessories

The Court of Appeals has explained:

> [P]rincipal in the first degree is one who actually commits a crime, either by his own hand, or by an inanimate agency, or by an innocent human agent. To the contrary, a principal in the second degree is one who is guilty of [a] felony by reason of having aided, counseled, commanded or encouraged the commission thereof in his presence, either actual or constructive. A principal in the second degree differs from an accessory before the fact because an accessory before the fact is one who is guilty of [a] felony by reason of having aided, counseled, commanded or encouraged the commission thereof, without having been present either actually or constructively at the moment of perpetration. Lastly, an accessory after the fact is one who, with knowledge of the other's guilt, renders assistance to a felon in the effort to hinder his detection, arrest, trial or punishment.

State v. Williams, 397 Md. 172, 193 (2007) (citations and quotations omitted), *overruled on other grounds by Price v. State,* 405 Md. 10 (2008).

In the case *sub judice*, the State proceeded for some felony offenses under the theory of principal in the second degree. Under this theory, the State had to first prove the underlying crime. *See Handy v. State*, 23 Md. App. 239, 252 (1974) ("But it is axiomatic that in order for a person to be a principal in the second degree, *there must be a crime committed and a principal in the first degree* . . . ." (emphasis added)). Next, the State had to prove that Dorsey and Anthony were principals in the second degree, which means that appellants had to "be either actually or constructively present at the commission of the criminal offense and aid, counsel, command, or encourage the principal in the first degree in the commission of that offense." *State v. Raines*, 326 Md. 582, 593 (1992).

II. Robbery with a Dangerous Weapon

A. *Underlying Offense of Robbery with a Dangerous Weapon*

Appellants argue that there is not sufficient evidence to sustain their convictions for robbery with a dangerous weapon, because the State did not prove that marijuana, money, or a PlayStation was stolen. The State responds first that there was evidence that cash was stolen from Fredrick, because Stanfield testified that, when Fredrick gave her and her daughters money for dinner, he still had cash left, and the evidence demonstrated that Fredrick did not have any cash on him when his body was discovered later that evening. Second, the State argues that Anthony testified that there was marijuana in Fredrick's home, but there was no marijuana found in the house when Fredrick's body was discovered. Finally, the State contends that it "introduced evidence of an overturned

television with dangling wires, a recent dust print on the floor consistent with McNeill's testimony that the victim kept a newly purchased Sony PlayStation in a 'black bag' next to the television, and O'Keefe's testimony that he saw one of the foursome (not Dorsey) fleeing from the victim's home carrying a backpack." According to the State, all of these facts demonstrate that the jury could have reasonably inferred that any one or more of the three items were taken from Fredrick's house. We agree with the State.

In Maryland, "[r]obbery is the felonious taking and carrying away of the personal property of another from his person by the use of violence or by putting in fear. Robbery with a dangerous or deadly weapon is the offense of common law robbery, aggravated by the use of a dangerous or deadly weapon." *Fetrow v. State*, 156 Md. App. 675, 687 (2004) (citations and quotations omitted).

In its case-in-chief, the State presented the following evidence regarding Fredrick's PlayStation: McNeill testified that he saw the PlayStation when he was over at Fredrick's house on the day of his murder, and that Fredrick kept his PlayStation in a black bag. O'Keefe testified that he saw one of the four men, whom he had reported to police as acting suspiciously earlier that evening, exit from the alley behind Fredrick's home carrying a backpack. The crime scene photos exhibited a dust imprint to the left of the TV stand where something square once rested, and McNeill testified that Fredrick kept his PlayStation to the left of the TV, because he was left handed. When police arrived, they did not find a PlayStation in Fredrick's house. From this evidence, we conclude that a rational jury could infer that Fredrick's PlayStation was taken away from Fredrick on the night of the murder. Because there was sufficient evidence that the PlayStation was stolen

from Fredrick, we need not consider whether the State also produced sufficient evidence for a jury to infer that cash and/or marijuana was taken from Fredrick.

B. *Principals in the Second Degree*

For the first time appellants raise in this Court the argument that the State failed to prove that they had the requisite intent to commit robbery with a dangerous weapon. Specifically, Anthony contends that the State failed to prove that Anthony entered into a venture knowing that one of the men intended to rob Fredrick or possessed a firearm. Dorsey also contends that the State did not prove that he had the intent to rob, because he was not present when Stern decided to rob and kill Fredrick; thus he could not form the intent required to be a principal in the second degree. We need not address appellants' arguments, because appellants failed to raise them in either of their motions for judgment of acquittal, and thus did not preserve them for appellate review. *See Arthur v. State*, 420 Md. 512, 523 (2011) (holding that arguments not raised in motions for judgement of acquittal are not preserved for appellate review).

Even if we were to consider appellants' arguments, they would not prevail. From the evidence of joint action by Anthony, Dorsey, Michell, and Stern, a jury could rationally conclude that Anthony and Dorsey had the requisite intent to be principals in the second degree to armed robbery. From the school video capturing Anthony, Dorsey, Mitchell, and Stern walking in the alley behind Fredrick's house and O'Keefe's call to police reporting their suspicious activity, a jury could infer that the four were casing Fredrick's house. The evidence further showed that the four men jumped over the victim's fence, not using the gate, and forcefully entered the backdoor of Fredrick's house, which was used by Fredrick

only to take out the trash. The medical examiner's testimony indicated that of the five gunshot wounds to Fredrick, four were not fired at close range. Finally, after Fredrick was shot, Anthony, Dorsey, and Michell were seen running away from Fredrick's house, followed seconds later by Stern carrying a backpack consistent with the bag in which Fredrick kept his PlayStation.[5] Based on these facts, a jury could conclude beyond a reasonable doubt that appellants "knew or had reason to know of the criminal intentions of" the principal to commit robbery with a deadly weapon. *See Williams*, 397 Md. at 195.

III. First Degree Burglary

A. *The Underlying Offense of Burglary*

Appellants contend that there is insufficient evidence to sustain their convictions for first degree burglary, because the State failed to prove actual or constructive breaking. According to appellants, the State did not prove actual breaking, because there was no evidence of forced entry. Moreover, they contend that the State failed to prove constructive breaking, because the State did not prove that they entered Fredrick's home without consent.

The State responds that the jury had sufficient evidence to infer a breaking and that Dorsey was the principal in the burglary, because his palm print was found on the exterior doorknob of the back door. The State contends that "[b]etween the evidence of . . . the door's primary use, Dorsey's palm print on the exterior door knob, and the fate of the trashcan, a jury could rationally infer beyond a reasonable doubt that there had been an

[5] Dorsey suggests that the "backpack was probably the black bag with the PlayStation that [ ] O'Neill saw in [Fredrick's] bedroom."

'unloosing, removing, or displacing' of a 'covering or fastening of the premises.'" We agree with the State.

First degree burglary is a felony and is defined as "break[ing] and enter[ing] the dwelling of another with the intent to commit theft or a crime of violence." Md. Code (2002, 2012 Repl.), § 6-202(a) of the Criminal Law Article ("CL") (repealed and reenacted with amendments 2014). The Court of Appeals has held that actual breaking is defined as "unloosing, removing or displacing any covering or fastening of the premises. It may consist of lifting a latch, drawing a bolt, raising an unfastened window, *turning a key or knob, pushing open a door kept closed merely by its own weight*." *Jones v. State*, 395 Md. 97, 119 (2006) (emphasis added) (internal quotation marks and citation omitted). Despite appellants' insistence, actual breaking does not require force. *See id.*

Here, the State presented sufficient evidence for a rational jury to conclude that an actual breaking occurred at Fredrick's house. Dorsey's palm print was on the backdoor's exterior knob, and McNeill testified that no one used the backdoor of Fredrick's house except Fredrick when he took his trash outside. Photographs showed the trashcan appearing to have been flung into in the dining room when someone opened the door, an inference supported by McNeill's testimony that Fredrick kept his trashcan near the backdoor. Moreover, the position of the trashcan in the dining room and the dishevelment of Fredrick's bedroom indicated that a confrontation occurred with unwelcome individuals, thus contradicting Anthony's testimony that they entered the house with Fredrick's consent. Taking these facts together, a rational jury could infer that an actual breaking occurred, and because appellants do not challenge the remaining elements needed to prove

first degree burglary, we conclude that the State presented sufficient evidence to prove the underlying crime of first degree burglary.

B. *Principal in the Second Degree*

In their motions for judgment of acquittal, neither Anthony nor Dorsey argued that the State failed to prove that they were principals in the second degree as to first degree burglary. Anthony now argues for the first time that the State failed to prove such liability because of insufficient evidence demonstrating that Anthony shared the same intent or purpose as the principal. Because Anthony failed to preserve this argument by not raising it below, we need not address it. *See Arthur*, 420 Md. at 522-23 (holding that arguments not raised in motions for judgement of acquittal are not preserved for appellate review).

Nevertheless, even if we were to consider Anthony's argument, he would not prevail. The Court of Appeals has explained that, "when two or more persons participate in a criminal offense, each is responsible for the commission of the offense and for any other criminal acts done in furtherance of the commission of the offense or the escape therefrom." *Raines*, 326 Md. at 598 (internal quotation marks and citation omitted). As explained in Section II.B., *supra*, Anthony "knew or had reason to know of the criminal intentions of" the principal to commit robbery with a deadly weapon, and the first degree burglary was perpetrated in furtherance of the robbery with a dangerous weapon. *Williams*, 397 Md. at 195. In other words, the burglary of Fredrick's home was done with the intent to commit a crime of violence, i.e, robbery with a deadly weapon, and such intent was known or should have been known to Anthony. Accordingly, for the same reasons explained in Section II.B., *supra*, a rational jury could conclude beyond a reasonable doubt

Anthony was guilty of first degree burglary as a principal in the second degree.

IV. Weapons Offenses

Anthony and Dorsey were each convicted of two counts of: (1) wearing, carrying, or transporting a handgun, and (2) use of a firearm in the commission of a felony or crime of violence.[6] The crime of wearing, carrying, or transporting a handgun is defined, in relevant part, as "wear[ing], carry[ing], or transport[ing] a handgun, whether concealed or open, on or about the person[,]" Md. Code, CL § 4-203, and is a strict liability crime, requiring no proof of intent. *Lee v. State*, 311 Md. 642, 647 (1988). Use of a firearm in the commission of a felony or crime of violence is defined as a person using a firearm during the commission of a felony or crime of violence, Md. Code, CL § 4-204, and is a general intent crime. The crimes of violence or felonies in this case were murder for one count and burglary in the first degree or armed robbery for the other count.

Both appellants argue that their convictions for wearing, carrying, or transporting a handgun and use of a firearm in the commission of a felony or crime of violence are erroneous, because the State failed to prove that either appellant possessed and used a gun or were principals in the second degree. We disagree.

We first note that Anthony has not preserved his arguments as to any of his weapons convictions. Anthony's only mention of his weapons charges at trial was that there was not sufficient evidence for those charges, but he did not explain his assertion. The Court

[6] Dorsey was also convicted of an additional count of wearing, carrying, or transporting a handgun, and a separate count of possession of a firearm after having been convicted of a disqualifying crime.

of Appeals has frequently held that "merely reciting a conclusory statement and proclaiming that the State failed to prove its case" does not satisfy the particularity requirement in Maryland Rule 4-342(a). *See, e.g.*, *Arthur*, 420 Md. at 524. Hence, Anthony has not preserved his contentions on appeal; but even if Anthony's contentions were preserved, he, like Dorsey, would not prevail.

At trial, it was undisputed that the four men were in Fredrick's house on the day of the murder. The State presented evidence that one of the four men shot and killed Fredrick using a .45 caliber handgun. As explained, *supra*, the State presented sufficient evidence that the shooting took place during the commission of the crimes of murder and armed robbery. Accordingly, there was evidence sufficient for a jury to conclude beyond a reasonable doubt that a handgun was used in the commission of a felony, but insufficient evidence that either Anthony or Dorsey possessed or used the handgun.

Nevertheless, the State proceeded on a principal in the second degree theory of culpability for the weapons offenses. Appellants claim that no such criminal liability can be imposed because there was insufficient evidence of appellants' participation in "a joint venture with others, intending to commit a felony or a crime of violence, and knowing that a handgun would be used."

All of the weapons convictions, however, are misdemeanors, and the "principles of accessoryship apply only to felonies; as to misdemeanors all participants in a crime are considered principals. 'When a person embraces a misdemeanor, that person is a principal as to that crime, no matter what the nature of the involvement.'" *Williams*, 397 Md. at 193 (quoting in part *State v. Hawkins*, 32 Md. 270, 280 (1992)). In short, the State was not

required to present a theory about whether appellants knew of the intent of the person who actually possessed or used the handgun and needed only to present sufficient evidence that appellants embraced the commission of a felony or a crime of violence. Sections II.B. and III.B., *supra*, demonstrate that appellants embraced the criminal enterprise of robbing Fredrick, and in doing so, a weapon, a .45 caliber handgun, was used. Thus a rational jury could conclude, beyond a reasonable doubt, that appellants were guilty of (1) wearing, carrying, or transporting a handgun and (2) use of a firearm in the commission of a felony or a crime of violence.

A. *Dorsey's Possession of a Firearm After having been Convicted of a Disqualifying Crime*

Dorsey alone was convicted of possession of a firearm after having been convicted of a disqualifying crime and argues that there was insufficient evidence for this conviction. Specifically, Dorsey argues that the State failed to adduce sufficient evidence that Dorsey possessed a gun or was a principal in the second degree.

Possession of a firearm after having been convicted of a disqualifying crime is a felony, and to convict Dorsey, the State had to "prove three things: (1) possession; (2) of a regulated firearm; and (3) a prior conviction of a crime of violence." *Nash v. State*, 191 Md. App. 386, 394, *cert. denied*, 415 Md. 42 (2010). At trial, a stipulation stated that Dorsey was convicted of a disqualifying crime. When considering this stipulation along with our discussion in Section II. B., *supra*, a rational jury could conclude, beyond a reasonable doubt, that Dorsey possessed a regulated firearm, as a principal in the second degree, after having been convicted of a disqualifying crime.

V. Felony Murder

Finally, appellants assert that their felony murder convictions must be vacated, because there was insufficient evidence to sustain the underlying felonies of first degree burglary and robbery with a dangerous weapon. Because we have concluded that there was sufficient evidence for both underlying felonies, we uphold their felony murder convictions as well.

JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED; COSTS TO BE PAID ONE-HALF BY APPELLANT DORSEY AND ONE-HALF BY APPELLANT ANTHONY.